



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,616	03/28/2001	Katherine G. August	August 34-54	1720

7590 09/09/2004

Harness, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston, VA 20195

EXAMINER

CHILCOT, RICHARD E

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/818,616

Applicant(s)

AUGUST ET AL.

Examiner

Richard E. Chilcot, Jr.

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-108 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-108 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/20/2004.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 10-35, 40-42, 46-49, 51-54, 57, 61-70, 72-77) 80-84, 91-

95, 98, 99-105, 107 and 108 are rejected under 35 U.S.C. 102(e) as being anticipated by either Fano or Ogasawara.

Fano teaches as seen in Figure 27, a PDA having a display that operates in a browse mode for use by shoppers as they stroll through the mall. In browse mode the system suggests items of interest for sale in the stores currently closest to the shopper. An item is considered to be of interest if it matches the categories entered in the goals screen. If there are no items of interest, the general type of merchandise sold at that store is displayed, rather than specific items. As the shopper strolls a map displays his or her precise current location in the mall. If the shopper while browsing selects an item displayed, the system alerts the shopper to the local retailer offering the same product for the lowest price, or announces the best local price. This search is restricted to the local mall, as that is the assumed radius the shopper is willing to travel.

Fano further teaches the current inventive agent will support broader aspects of the shopping task, for example, it could operate as bi-directional channels. That is, not only can they provide information to the shopper, but, at the shopper's discretion, they may provide information to retailers as well. In this embodiment, the system indicates a shopper's goals and preferences to a retailer-based agent, who, in turn, responds with a customized offer that bundles service along with the product. Enabling the customization of offers is crucial to gaining the cooperation of retailers who are reluctant to compete solely on price and of value to customers who base their purchases on criteria other than price.

On the other hand, Ogasawara teaches an electronic shopping system for facilitating purchase transactions via a wireless telephone to which a program download function, a downloaded program execution function and an input/output port for external scanner connection have been added. The electronic shopping system comprises a server and at least one wireless telephone for communicating with the server.

Ogasawara further teaches once a customer visits a store, the customer simply dials the number of the store's personal shopping system service. The personal shopping system application is then automatically downloaded into the customer's telephone. The downloaded program automatically begins execution and provides the desired functionality of a personal shopping system. A bar code scanner in communication with the telephone is used to scan the bar codes of purchased items. Ogasawara also teaches the store maintains a server which provides a downloadable purchase transaction program to a purchaser's wireless telephone when the purchaser calls the

Art Unit: 3627

store's server via the purchaser's wireless telephone. After downloading the purchase transaction program from the server to the wireless telephone, the server communicates with the wireless telephone so as to use the downloaded purchase transaction program to facilitate selection of the desired product(s) for purchase, as well as to facilitate payment therefore. Ogasawara continues to teach that different sellers will desire to incorporate different messages, advertisements, menus, etc. into their own purchase transaction program and to further customize their own purchase transaction program so as to tailor it to the particular products being sold.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3, 4, 6-9, 44, 45 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Fano or Ogasawara in view of Kurland et al. Both Fano and

Ogasawara teach all the features of the claimed invention with the exception of displaying of the order status at the order preparation area. Kurland et al disclose displays 24 and 26 that display the status of the orders in an interactive restaurant communications system, see col. 3, lines 51-63 and col. 4, lines 42-65.

It would have been obvious to one of ordinary skill in the art in view of the showing and teaching of Kurland et al to provide the system of either Fano or Ogasawara with a display to show the status of the orders in the order preparation area.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fano or Ogasawara in view of Coleman.

Fano and Ogasawara disclose all the features of the applicants' claimed invention except the inventory control. Coleman discloses a restaurant management system with an inventory control at 64 in Fig. 3 and col. 4, lines 10-22. Accordingly it would have been obvious to one of ordinary skill in the art in view of the showing and teaching of Coleman to provide the system of either Fano or Ogasawara with an inventory control to maintain sufficient supplies.

Claims 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over Fano or Ogasawara view of Treyz et al.

Both Fano and Ogasawara disclose all the features of the applicants' claimed invention except the customer loyalty database. Treyz et al disclose in col. 57, line 59 to col. 58, line 12 a customer loyalty card and associated account number to identify a customer for special discounts. It would have been obvious to one of ordinary skill in

Art Unit: 3627

the art in view of the showing and teaching of Treyz et al to provide the system of either Fano or Ogasawara with a loyalty card system to give discounts to special customers.

Claims 55, 56, 71, 78, 79, 96, 97 and 106 are rejected under 35U.S.C. 103(a) as being unpatentable over Fano or Ogasawara in view of Treyz et al.

Both Fano and Ogasawara disclose all the features of the applicants' claimed invention except transmitting directions to the restaurant. Treyz et al disclose in col. 32, lines 12-16 providing directions to the restaurant to the customer. It would have been obvious to one of ordinary skill in the art in view of the showing and teaching of Treyz et al to provide the system of either Fano or Ogasawara with a means to provide directions to the restaurant to the customers.

Response to Arguments

Applicant's arguments with respect to claims 1-108 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

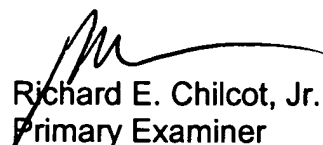
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard E. Chilcot, Jr. whose telephone number is 703-305-4716. The examiner can normally be reached on 5/4/9 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard E. Chilcot, Jr.
Primary Examiner
Art Unit 3627